

1 KRISTEN MONSELL (CSB No. 304793)
Email: kmonsell@biologicaldiversity.org
2 CATHERINE KILDUFF (CSB No. 256331)
Email: ckilduff@biologicaldiversity.org
3 CENTER FOR BIOLOGICAL DIVERSITY
1212 Broadway, Suite 800
4 Oakland, CA 94612
5 Telephone: (510) 844-7137
Facsimile: (510) 844-7150
6

7 DEAN S. KRISTY (CSB No. 157646)
Email: dkristy@fenwick.com
8 NAIR DIANA CHANG (CSB No. 287624)
Email: dchang@fenwick.com
9 FENWICK & WEST LLP
555 California Street, 12th Floor
10 San Francisco, CA 94104
Telephone: (415) 875-2300
11 Facsimile: (415) 281-1350
12

12 *Attorneys for Plaintiff*
13 *Center for Biological Diversity*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 CENTER FOR BIOLOGICAL DIVERSITY,

18 Plaintiff,

19 v.

20 CHARLTON H. BONHAM,

21 Defendant.

) Case No. 3:17-cv-05685-MMC

)

) **~~PROPOSED~~ ORDER ON THE MOTION**
) **TO INTERVENE OF PACIFIC COAST**
) **FEDERATION OF FISHERMEN'S**
) **ASSOCIATION AND INSTITUTE FOR**
) **FISHERIES RESOURCES; VACATING**
) **HEARING; DIRECTIONS TO MOVANTS**

) ~~Date: Apr. 20, 2018~~

) Time: 9:00 a.m.

) Dept: Courtroom 7, 19th Floor

) Judge: Hon. Maxine M. Chesney

) Trial Date: Not Yet Set

)

25
26
27 **~~PROPOSED~~ ORDER ON THE MOTION**
28 **TO INTERVENE, Case No. 3:17-cv-05685-MMC**

~~PROPOSED~~ ORDER

~~Before the Court is a motion to intervene by the Pacific Coast Federation of Fishermen's Association and the Institute for Fisheries Resources (collectively, "PCFFA"). After consideration of the briefs and arguments of counsel, and being fully advised, the Court hereby GRANTS PCFFA's motion to intervene with respect to the remedial phase of this case.~~

~~PCFFA's intervention papers demonstrate that its interest in this case is limited to the potential relief the Court might issue should it find Defendant liable, issues the court cannot consider in ruling on the merits of Plaintiff's claim. See *Wishtoyo Foundation v. United Water Conservation Dist.*, No. 16-3869-DOC, 2017 U.S. Dist. LEXIS 153184, at *9-10 (C.D. Cal. Sept. 7, 2017). Granting PCFFA's motion to intervene in the remedial phase of this case only will promote judicial efficiency, fairness, and the expeditious resolution of this case. See *Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370, 383 n.2 (1987) (Brennan, J., concurring).~~

~~ALTERNATIVE PROPOSED~~ ORDER

Before the Court is a motion to intervene by the Pacific Coast Federation of Fishermen's Association and the Institute for Fisheries Resources (collectively, "PCFFA"). After consideration of the briefs ~~and arguments of counsel~~, and being fully advised, the Court hereby GRANTS PCFFA's motion to intervene subject to the following conditions:

- 1) PCFFA shall abide by the scheduling order previously issued by this Court;
without having obtained specific leave of court
- 2) PCFFA shall not seek any independent discovery against the existing parties; and
- 3) ~~PCFFA shall not introduce evidence regarding the potential impact of the potential relief in this case during the merits phase; and~~¹
- 4) PCFFA shall coordinate with Defendant to present to the Court only those arguments not advanced by Defendant.

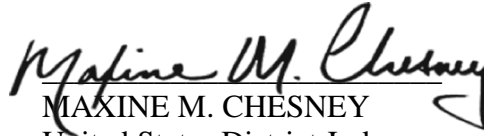
Such conditions will help ensure the efficient conduct of this proceeding. See *Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370, 383 n.2 (1987) (Brennan, J., concurring); ~~see also *Wishtoyo Foundation v. United Water Conservation Dist.*, No. 16-3869-DOC, 2017 U.S. Dist.~~

1. Although the Court has stricken the above proposed condition, the Court anticipates that neither PCFFA nor the existing parties will expend their own, or require the Court to expend its, resources by introducing irrelevant evidence.

1 ~~LEXIS 153184, at *9-10 (C.D. Cal. Sept. 7, 2017) (courts cannot consider the impacts of~~
2 ~~potential relief in ruling on the merits of a plaintiff's claim under Section 9 of the Endangered~~
3 ~~Species Act).~~

4 In light of the above, the April 27, 2018, hearing is hereby VACATED, and PCFFA is hereby
5 DIRECTED to file, no later than April 16, 2018, their Answer to plaintiff's Complaint.

6
7
8 DATED: April 10, 2018


MAXINE M. CHESNEY
United States District Judge